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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

17 NEXTDOOR.COM, INC., a Delaware  
18 corporation,

19 Plaintiff,

20 vs.

21 RAJ ABHYANKER, an individual,  
22 Defendant.

Case No. 3:12-cv-05667-EMC

**DEFENDANT RAJ ABHYANKER'S  
OPPOSITION TO ADMINISTRATIVE  
MOTION TO CONSIDER WHETHER  
CASES SHOULD BE RELATED  
PURSUANT TO L.R. 3-12 AND 7-11**

Hearing Date: No Date Set

Judge: Honorable Edward M. Chen

23 RAJ ABHYANKER, an individual,

24 Counterclaimant,

25 vs.

26 NEXTDOOR.COM, INC., a Delaware  
27 corporation; PRAKASH JANIKIRAMAN,  
28 an individual; BENCHMARK CAPITAL  
PARTNERS, L.P., a Delaware limited  
partnership; BENCHMARK CAPITAL  
MANAGEMENT CO. LLC, a Delaware  
limited liability company; SANDEEP  
SOOD, an individual; MONSOON  
ENTERPRISES, INC., a California  
Corporation, and DOES 1-50, inclusive;

Counterdefendants.

1 Defendant, Raj Abhyanker, hereby opposes the Administrative Motion to Consider  
2 Whether Cases Should Be Related Pursuant to L.R. 3-12 and 7-11 filed by the Plaintiff. ECF  
3 Docket No. 229 (hereafter the “Motion”). Plaintiff, Nextdoor.com, seeks to have this case related  
4 with case alleging patent infringement, case number 14-02335-KAW (hereafter the “patent  
5 case”).  
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7 Civil Local Rule 3-12(a) has a two part standard for relating cases. The rule states: “(1)  
8 The actions concern substantially the same parties, property, transaction or event; and (2) It  
9 appears likely that there will be an unduly burdensome duplication of labor and expense or  
10 conflicting results if the cases are conducted before different Judges.”

11 First, the actions do not involve “substantially the same parties.” Although Defendant  
12 Abhyanker was originally a co-plaintiff in the patent case, he dismissed his personal claims  
13 before this motion was filed. *See*, ECF Docket Entry No. 9, filed in the patent case (Notice of  
14 Voluntary Dismissal by Raj V. Abhyanker). Following Abhyanker’s dismissal of his personal  
15 claims in the patent case, the sole remaining plaintiff is a corporation, Fatdoor, Inc., which is not  
16 a party to this case. While it is true that Mr. Abhyanker is one of the equity holders of Fatdoor,  
17 the fact remains that a corporation is a separate legal person and that there are other equity  
18 holders. The parties in the two cases cannot, therefore, be considered “substantially the same.”  
19

20 Second, the actions do not concern “substantially the same. . . property, transaction or  
21 event.” Indeed, in this case, Nextdoor.com previously argued that patent claims are “qualitatively  
22 different” from the trademark and trade secret claims that have been at issue in this case. *See*,  
23 ECF Docket No. 118 in this case at p. 14 (Nextdoor.com’s opposition to Abhyanker’s motion to  
24 amend complaint to add a claim for patent infringement). As Nextdoor.com acknowledged in its  
25 prior pleading, the issues in a patent infringement case include “involved and time consuming”  
26 disclosures of alleged infringement contentions, invalidity contentions, and claim construction,  
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1 governed by the District's patent local rules. *Id.* Such issues are completely foreign to the claims  
2 of trademark and trade secret at issue in this case. Moreover, unlike the rights to trademarks (the  
3 rights at issue in the current case) which are determined by first use of a mark in commerce, rights  
4 to a patented invention are not determined by first use but by the date of invention.

5  
6 Third, there is no reason to believe it is likely that there will be an "unduly burdensome  
7 duplication of labor or expense" of the cases are not related before a single Judge. As noted in  
8 the preceding paragraph, the patent case involves numerous factual and legal issues that were not  
9 of concern in this case. The primary issues to be litigated in the patent case – patent ownership,  
10 infringement, validity, claim construction, date of invention – have not been previously litigated  
11 in this case, so there can be no credible suggestion that litigation of those issues in the patent case  
12 would be duplicative of anything done in this case. Indeed, Nextdoor.com does not even attempt  
13 to suggest that those central patent issues have been litigated here. In an attempt to find at least  
14 one supposedly common issue between this case and the patent case, Nextdoor.com points to a  
15 partial assignment of a patent application (NOT the application for the patent asserted in the  
16 patent case), and then asserts, without presenting any supporting evidence, that the assignment is  
17 a "sham." That assignment relates to a patent application other than the patent asserted in the  
18 patent case, and does not demonstrate that there will be any overlap or duplication of effort if the  
19 cases are not consolidated. That assignment does not relate in any way to the trademarks or trade  
20 secrets at issue in this case. Since the assignment has no relationship to the issues in this case, it  
21 has not been an area of discovery in this case (other than Nextdoor.com asking Mr. Abhyanker a  
22 few questions during his deposition). For example, there was no subpoena issued to the assignor  
23 (a third party known as GeoTag) in this case to determine the validity of that assignment.

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25  
26 Nextdoor.com also argues that Abhyanker previously asserted, then withdrew, his patent  
27 claims as part of *this* case. This is simply not true. The patent case involves a brand new patent  
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1 that was not even issued until May 20, 2014, the same day on which the patent case itself was  
2 filed. Thus, Mr. Abhyanker has not previously asserted, and could not have asserted, that patent  
3 in this case. Motion (ECF 229) at 2:18-20.

4 In sum, this case and the patent case are not properly considered “related” pursuant to  
5 Civ.L.R. 3-12. The Motion should therefore be denied..  
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8 Respectfully submitted,

9 Dated: June 23, 2014

**LEGALFORCE RAJ ABHYANKER, P.C.**

11  
12 /s/ Scott J. Allen

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